

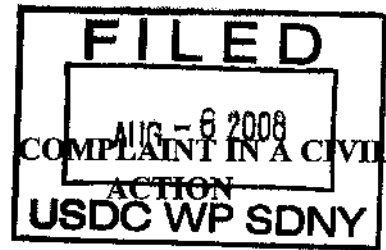
**UNITED STATES DISTRICT COURT
Southern District of New York**

-----X
KURT FLECHSIG and DIANE FLECHSIG,
Plaintiffs

-against-

**TOWN OF CLARKSTOWN, CLARKSTOWN
BOARD OF ASSESSMENT REVIEW, CLARKSTOWN
TAX ASSESSOR**

Defendants.
-----X



Case Number

08 CV. 7000
JUDGE KARAS

PLAINTIFFS, by their attorney, Wayne A. Gavioli P.C. as and for their
complaint, alleges as follows:

1. Plaintiffs were and still are residents of the Town of Clarkstown, County of Rockland, State of New York.
2. The Town of Clarkstown was and still is a municipality located in the State of New York, County of Rockland duly incorporated and operating under and pursuant to the laws of the State of New York.
3. The Clarkstown Board of Assessment Review was and still is a Board duly formed and appointed pursuant to the laws of the State of New York and organized to review and determine appeals concerning tax assessments in the Town of Clarkstown.
4. Cathy Conklin was and still is the duly appointed tax assessor in and for the Town of Clarkstown.
5. That Plaintiffs are owners in fee simple of certain real property known as and located in the Town of Clarkstown.
6. That the Town of Clarkstown did duly adopt the tax roles for the Town of Clarkstown in 2005.

7. That the Town Assessor did prepare and submit said tax role which did establish the assessments of all parcels located in the Town of Clarkstown for purposes of paying Town of Clarkstown taxes, County of Rockland taxes and Clarkstown School District taxes.

8. That Plaintiffs' taxes were set pursuant to said assessment established by the assessor and duly adopted by the Town Board of the Town of Clarkstown.

AS AND FOR A FIRST CAUSE OF ACTION.

9. That said role does violate the laws of the State of New York, in that among other things it is not properly and timely updated, does assess properties of the same value differently because it is outdated, assesses recently developed properties greater than pre-existing developed properties, fails to properly assess based upon the de facto taking caused by environmental easements, conservation easements, and other benefits to the state, town and county, fails to account for the absence of municipal services, fails to maintain timely and current tax records, fails to timely reassess all properties in the jurisdiction, causes recently developed properties to pay a disproportionate share of taxes, results in higher assessments for similarly situated properties, causes properties to be not equally assessed.

10. That as a result thereof, the Plaintiffs' premises are being improperly and illegally assessed.

11. As a result thereof Plaintiffs have been and will continue to be damaged in amounts that continue to be calculated.

AS AND FOR A SECOND CAUSE OF ACTION

12. Plaintiffs repeat, reallege and reassert each and every allegation heretofore stated.

13. That said tax role because of its inequality resulting from failure to timely update the same violates the Plaintiffs equal protection before the law as a result of governmental action and therefore violates their constitutional rights.

14. That said role deprives Plaintiffs of their property by improperly assessing and by favoring others to Plaintiffs' detriment.

15. Said role denies Plaintiffs their due process of law by imposing said improperly maintained role and assessment upon Plaintiff and by failing to update and maintain current roles and roles as required by State law.

16. As a result thereof Plaintiffs have been denied their constitutional and property rights resulting in damages which continue to accrue.

AS AND FOR A THIRD CAUSE OF ACTION

17. Plaintiffs repeat, reiterate and reallege all of the allegations heretofore stated.

18. That unless said roles are declared null and void Plaintiffs will continue to be damaged on a continual basis.


AS AND FOR A FOURTH CAUSE OF ACTION

19. Plaintiffs repeats, reiterates all of the allegations heretofore stated.

20. Plaintiffs did file a grievance with the Clarkstown Board of Assessment Review which grievance was arbitrarily and improperly denied.

WHEREFORE PLAINTIFFS DEMAND JUDGMENT AWARDING THEM DAMAGES IN THE AMOUNT TO BE DETERMINED AT THE TIME OF TRIAL SINCE SAID SUM CONTINUES TO ACCRUE, DECLARATION THAT SAID ROLE IS IMPROPER AND ILLEGAL AND FOR DAMAGES RESULTING FROM DENIAL OF CONSTITUTIONALLY PROTECTED RIGHTS, TOGETHER WITH LEGAL FEES, COSTS AND DISBURSEMENTS AND SUCH OTHER AND FURTHER RELIEF AS TO THE COURT IS JUST AND PROPER.

Dated:
Nanuet, New York



WAYNE A. GAVIOLI P.C.
Attorney for the Plaintiffs
101 No. Middletown Road
Nanuet, New York 10954
(845)-624-2525